

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: USHIWATA et al

Serial No.: 10/796,032

Filed: March 10, 2004

For: Miter Saw Having Light Beam Projection Device

Art Unit: 3724

Examiner: O. Flores Sanchez

Conf. No.: 2135

**PETITION FOR WITHDRAW OF AN ERRONEOUS HOLDING OF
ABANDONMENT UNDER 37 CFR 1.181 BASED UPON RECEIPT
OF CORRECTED NOTICE OF ALLOWANCE AND FURTHER
BASED ON FAILURE TO RECEIVE ORIGINAL NOTICE OF ALLOWANCE**

Mail Stop: Petition (Issue Fee)
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 12, 2007

Sir:

This Petition is in response to the Notice of Abandonment dated October 3, 2007 in the above-identified matter. A copy of this Notice of Abandonment is attached herewith.

In the Notice of Abandonment, it is indicated that the application has been abandoned for:

Applicants failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance.

With regard to this, the applicants note the following two facts:

(1) The original February 28, 2007 Notice of Allowance was not received in the offices of the undersigned attorney; and

(2) After discussing the non-receipt of the original Notice of Allowance, the Examiner issued a corrected Notice of Allowance on July 12, 2007.

With regard to the issue of failure to receive the Notice of Allowance in accordance with the requirements of MPEP §711.03(c)(II), the undersigned hereby states that a search of the file jacket and the docket records indicates that the original Notice of Allowance was not received. In addition, a copy of the docket record where the non-received office action would have been entered, had it been received and docketed, is provided. As can be seen from this docket record, as of May 18, 2007, the docket record indicated "awaiting notice of allowance". The receipt of the Corrected Notice of Allowance on July 12, 2007 is also docketed. However, there is no entry at all in the docket record to show receipt of any Notice of Allowance dated February 28, 2007. Further, a copy of the Office handwritten docket for May 28, 2007, the date that the issue fee would have been due, does not show any indication of an issue fee being due for this case. Normally, the docket number, the first inventor, the serial number and the letters "IF/PF" would be listed for an issue fee due date.

Further, the Corrected Notice of Allowance was mailed on July 12, 2007 following a discussion with the Examiner concerning the non-receipt of the original Notice of Allowance. Therefore, it is respectfully submitted that the due date of the issue fee should be based on the date of the Corrected Notice of Allowance of July 12, 2007, not the date of the original Notice of Allowance on February 28, 2007.

For the reasons set forth above, removal of the erroneous holding of abandonment in this matter is respectfully requested.


Although it is the applicants understanding that there is no fee for this Petition, if any such fee is required, it is requested that the fee be charged to the deposit

account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135
(Case: 1297.43489X00), and please credit any excess fees to such deposit account.

It is also noted that the issue fee is being paid on even date herewith, that is,
the three month period indicated in the Corrected Notice of Allowance and Fees
Due.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

/Gregory E. Montone/ 
Gregory E. Montone
Registration No. 28,141

MK/GEM/jla
(703) 312-6600
Attachments

MAY

28

MONDAY

2007 148th day - 217 days follow

Memorial Day, Observed (US)

501. 41129X00	HITROT	062, 632	FINAL/NOT	LDT	ALLOW
612. 43151X00	MARTIN	475, 601	RESPONSE	AES	4/30
1021. 44215X00	THAKHARSHI	931, 098	RESPONSE	MR	2/27
396. 44574X00	MARENO	017, 714	RESPONSE	WIS	2/28
502. 39771X00	MARENO	763, 735	RESTRICTION	MR	12/26
1021. 45799X00	KRAMAHARI	329, 086	RESTRICTIONS	MR	12/26
1352. 42604X00	BARAH	151, 246	ELECTION	AES	2/28
847. 46794X00	SHITO	593, 592	MR	COM	3/27
320. 940T01	LECO	570, 058	SUN OR 1ST BOT	AES	5/2
321. 2764700	VAMPIRE'S LUNCH	794, 144	SUN OR 1ST BOT	AES	5/2
500. 43169X00	OKADA	670, 355	IF/PT	PSS	RCE N/3 FIDING
520. 43411X00	NAGEYAMA	760, 366	IF/PT	PSS	5/2
501. 43897X00	NARAHMUCHA	858, 049	IF/PT	MR	5/2
648. 45865X00	AKAWAG	345, 577	IDS (of KROH)	AES	5/11

Case Detail Report

Case Number: **43489X00**
Client: **KITAZAWA & KOIZUMI**
1297
Address: **First Genesis Bldg. 6F**
No. 31-14, Yushima 2-chome
Bunkyo-ku, Tokyo 113-0034
Phone: 81358422506
Fax No.: 81358422505
US Serial No.: 10/796,032
Title: **Shigeharu USHIWATA**

Initiating Atty: **MK**

Responsible Atty: **MK**

Billing atty: **MK**

Docket Events

Matter 43489X00

Item	Due/Sched	Completed
Priority Date	03/20/2003	03/20/2003
DECLARATION FILED	03/10/2004	03/10/2004
CLAIM FOR PRIORITY	03/10/2004	03/10/2004
ASSIGNMENT FILED	03/10/2004	03/10/2004
IDS/1449 FILED	03/10/2004	03/10/2004
Filed Date	03/10/2004	03/10/2004
APPL FILING DEADLINE	03/20/2004	03/10/2004
POST CARD CHECK	04/10/2004	03/17/2004
FILG RCPT STATUS CHK	06/10/2004	05/28/2004
RECORDED ASSIGNMENT RECV'D	09/07/2004	11/15/2004
File IDS (off German OA dtd. 3/15/05)	06/15/2005	05/06/2005
Examiner's nonfinal Office Action mailed	04/26/2006	04/27/2006
Response to Office Action	07/26/2006	07/24/2006
CANCEL:Rule Autocomplete;Response to Office Action (One Month Exten:	08/26/2006	07/24/2006
CANCEL:Rule Autocomplete;Response to Office Action (Second Month Ex	09/26/2006	07/24/2006
Final Office Action Date mailed	10/18/2006	10/19/2006
Last day to file response to Examiner's Office Action	10/26/2006	07/24/2006
Follow up - Check status if no action by PTO	01/24/2007	10/19/2006
Statement of Substance of the Interview Due	03/28/2007	03/28/2007
CANCELED APPOINTMENT: per note rec'd from Joy: "MK says ok-c;Last	04/18/2007	04/18/2007
CANCELED APPOINTMENT: per note rec'd from Joy: "MK says ok-c;Last	04/18/2007	04/18/2007

Case Detail Report

Docket Events

Matter 43489X00

Item	Due/Sched	Completed
Awaiting Notice of Allowance (per note rec'd on 4/18/07 from Joy: "MK say:	05/18/2007	07/12/2007
Notice of Publication Fee Mailed	07/12/2007	07/12/2007
Notice of Allowance mailed	07/12/2007	07/12/2007
CANCELED APPOINTMENT: ;Statement of Substance Due (Filed in March	08/11/2007	07/25/2007
Notice of Abandonment	10/03/2007	
Publication Fee Due (no extensions possible)	10/12/2007	
Issue Fee due	10/12/2007	
Formal Drawings filed	10/12/2007	
Check if additional Art has been considered or if Continuation should be file	10/12/2007	
File Petition to Withdraw Notice of Abandonment	12/03/2007	
Awaiting Issue Notification	12/12/2007	

Related Parties

Matter 43489X00

Name	Relation	Phone
RICOH PRINTING SOLUTIONS, LTD.	ASSIGNEE	
KITAZAWA & KOIZUMI	CLIENT	
IMAMURA, RYUICHI	INVENTOR	
OZAWA, TAKASHI	INVENTOR	
USHIWATA, SHIGEHARU	INVENTOR	



UNITED STATES PATENT AND TRADEMARK OFFICE

MK 129743489X00

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,032	03/10/2004	Shigeharu Ushiwata	1297.43489X00	2135
<div>20457 7590 10/03/2007 ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873</div> <div>NOTICE OF ABANDONMENT FILE PETITION TO WITHDRAW BY 12/3/07</div> <div>EXAMINER FLORES SANCHEZ, OMAR</div> <div>ART UNIT 3724</div> <div>PAPER NUMBER</div> <div>MAIL DATE 10/03/2007</div> <div>DELIVERY MODE PAPER</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

(IF/FF 10/12/07)

Notice of Abandonment

Application No.

10/796,032

Examiner

FLORES SANCHEZ, OMAR

Applicant(s)

Shigeharu Ushiwata

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

/AG/

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.